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SH2266258

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 11-30-11	Bureau/Station/Facility: Lakewood Sheriff Station	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 010-10516-1351-011	Date: 05-06-10 Time: 0400
City or Station: Hawaiian Gardens	Nature of Incident: Deputies heard numerous gunshots in the area, then a call for service of 459N. Deps. went to loc and S/Mercado exited residence with assault rifle after shooting 4 people, 3 of which died, 2 inside the residence. Deputy confronted suspect ordering him to drop assault rifle. Suspect refused, turning with rifle pointed at deputy. Deputy shot 2 rounds from AR-15, one round "grazed" forehead of suspect.
Location: [redacted] Devin Avenue Hawaiian Gardens, 90706	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, (Street) — circled. Other: ______

Lighting (*circle only one*): Darkness, Daylight, Other, (Street Lights) — circled

Weather (*circle only one*): (Clear) — circled, Cloudy, Fog, Rain

Distance: 25-30 yds

Incident Type (*circle one or more*): Accidental, (Armed Person) — circled, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, (Observation) — circled, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, (Routine Patrol) — circled

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
2	0

Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Diaz	Jose	R.	(EM) PM Day	(Regular) Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted]		First Name [redacted]		M.I. [redacted]		
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph	Home Ph [redacted]		
Last Name [redacted]		First Name [redacted]		M.I.		
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph	Home Ph [redacted]		
Last Name [redacted]		First Name [redacted]		M.I.		
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph	Home Ph [redacted]		

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Vernola	Thomas	J.	(On Duty) — circled; Present during shooting; Witness to shooting; Involved in shooting
[redacted]	Herrera	Gabriela		(On Duty) — circled; Present during shooting; Witness to shooting; Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Jobling	James	R.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Dinh	Minh	G.

PSTD Use Only
SH # 2266258

Officer Involved Shooting

URN: 010-10516-1351-011

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
05-06-10	0510	11-30-11	

Employee #	Last Name	First Name	M.I
[redacted]	Grimaldi	Mike	
[redacted]	Haynes	Laura	L.
[redacted]	Grote	Dinah	L.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint.Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1,2	FR	NO	23				
E#1	S#1	FR	CO	23	Y	Y	GS	HE

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 010-10516-1351-011

Involved Employee

E 1

Employee # [redacted]	Last Name: Brown	First Name: Freddy	M.I.: Q.
Sex: M Race: W	Rank: Deputy Sheriff	Unit Assignment: Lakewood Station	Work Assignment (Unit #, Module, etc.): 135B
ShiftTime (*circle only one*): EM (circled) PM Day	ShiftType (*circle only one*): Regular (circled) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 6	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest (circled)	Other Factors:
Age: [redacted] Height: 6' 01"	Weight: 275		
Range Qualification Date: [redacted]		PPC Qualification Date: 04-05-10	Laser Training Date: 10-30-08
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted] Prior Shootings? [redacted]	Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Colt Caliber: .223 # Shots: 2		Weapons Fired Brand: Caliber: # Shots:	
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit: Prior Shootings? ☐	Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand: Caliber: # Shots:		Weapons Fired Brand: Caliber: # Shots:	
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit: Prior Shootings? ☐	Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand: Caliber: # Shots:		Weapons Fired Brand: Caliber: # Shots:	
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 010-10516-1351-011

Suspect Information

S 1

Last Name Mercado		First Name Joseph	M.I.
AKA Last Name "JKUL"		First Name	M.I.
Sex: M Race: H	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 26 D.O.B. 11-23-83	Height: 5' 06" Weight: 190	FBI # [redacted]	CII # [redacted]
Booking # 2322558	Primary Charge: 187(A) PC	Secondary Charge: 664/187(A) PC	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make Plymouth		Model: 4 door	Year: 1989

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

Investigative Summary

INTERNAL AFFAIRS BUREAU
SHOOTING REVIEW SUMMARY
IAB #SH2266258
FILE #010-10516-1351-011

Involved Employee:	**Freddy Brown, Deputy Sheriff, #[redacted]**
Witness Employee:	**Jose Diaz, Deputy Sheriff, #[redacted]**
Date:	**May 6, 2010 (Thursday)**
Time:	**Approximately 0340 hours**
Location:	**[redacted] Devlin Avenue Hawaiian Gardens, California 90716**

OPENING STATEMENT:

At the above date and time, Lakewood Station Deputies Freddy Brown, #[redacted] (driver) and Jose Diaz, #[redacted] (book man) were involved in a shooting with Suspect Joseph Mercado, M/H, 26. Deputy Brown shot Suspect Mercado after he murdered his [redacted] her [redacted] and wounded her [redacted] Suspect Mercado then confronted Deputy Brown outside the residence with an assault rifle.

Deputy Brown and his [redacted] Deputy Diaz, were working Lakewood Station patrol Unit 135B, early mornings. While patrolling the city of Hawaiian Gardens, they heard numerous gunshots being fired nearby. As they drove toward the sound of the gunshots, a burglary in progress call was broadcast over the radio at the location. The call was then updated to include shots fired.

Due to the number of rounds being fired and the fact they sounded like rifle fire, Deputy Brown stopped his patrol car out of view of the location, and retrieved his Department issued Colt AR-15 rifle. As he and his partner approached the location on foot, he saw Suspect Mercado exit the home carrying an assault rifle. Suspect Mercado walked into the street. Deputy Brown ordered Suspect Mercado to drop the weapon, but he refused. Instead, he turned toward Deputy Brown with the rifle still in his hands. Deputy Brown, fearing for his life and the life of his partner, fired two rounds from his AR-15 striking Suspect Mercado once in the head. Suspect Mercado immediately fell to the ground and was apprehended.

Deputy Brown and his partner, along with assisting units, then entered the location to check the welfare of the residents. Upon entry, they discovered the victims in various areas of the house.

Victim [redacted] sustained a gunshot wound to the head. Victim [redacted] sustained a gunshot wound to the chest. They were both pronounced dead at the scene.

Victim [redacted] sustained multiple gunshot wounds to the upper torso. He was transported to Long Beach Memorial Hospital where he later died.

Victim [redacted] sustained multiple gunshot wounds to the upper torso. She was transported to Long Beach Memorial where she was listed in critical condition, and eventually released.

Suspect Mercado sustained a grazing wound to the head. He was transported to Saint Mary's Medical Center where he was treated, given an okay to book, and transported to Lakewood Station.

No deputies were injured.

Suspect Mercado's weapon was recovered at the scene. Two expended shell casings from Deputy Brown's weapon were recovered, and numerous shell casings from Suspect Mercado's weapon were recovered.

> **IAB Note**: Deputy Brown's rounds were not recovered by the crime lab.

<u>INVOLVED PERSONNEL</u>:

Brown, Freddy, Employee #[redacted]
Field Operations Region III
Lakewood Station

Work History:

Brown, Freddy
Date of Employment: 04-13-00
Date Assigned to Patrol: [redacted]
Date Completed Patrol Training: [redacted]
Prior Shooting Incidents: [redacted]
Prior Founded Force Incidents: [redacted]

WITNESS PERSONNEL:

Diaz, Jose, Employee #[redacted]
Field Operations Region III
Lakewood Sheriff Station

Work History:

Diaz, Jose
Date of Employment: 08-02-06
Date Assigned to Patrol: [redacted]
Date Completed Patrol Training: [redacted]
Prior Shooting Incidents: [redacted]
Prior Founded Force Incidents: [redacted]

SUSPECT:

Mercado, Joseph-MH/26, 5'06", 190 lbs.

Criminal History:

Suspect Mercado's criminal history consisted of [redacted] (Refer to **Volume II, Miscellaneous Documents,** for Suspect Mercado's RAPS and CCHRS printout).

NON DEPARTMENT WITNESSES

The following narratives are intended only as a synopsis of the interviews. Additional information and precise wording may be obtained by reviewing the recorded interviews and transcriptions.

Many witnesses interviewed by Homicide Investigators and Lakewood Sheriff Station personnel heard gunshots but did not witness the Deputy-Involved shooting. Of those interviewed, the following witnesses provided information to Homicide Investigators, describing deputy personnel involvement.

[redacted]

Mr. [redacted] said he heard gunshots, which he initially thought was someone kicking in a door. When he looked outside his west facing window, he saw police officers with rifles and one with a handgun.

Mr. [redacted] told investigators he then heard additional gunfire and one officer said, "I think I got him." Mr. [redacted] said he heard a "lot of shots" coming toward the officers in the area (Refer to **Volume II, Exhibit A, pages 151 through 152,** for Mr. [redacted] full statement).

[redacted]

Mr. [redacted] is the [redacted] of victim [redacted] Mr. [redacted] said he heard gunshots between 0300 and 0330 hours from an unknown location. By the time the third volley of gunshots sounded, he looked out his window and could see Suspect Mercado holding a rifle, shooting it. The suspect was standing in the driveway, located on the south side of the property of [redacted] Mr. [redacted] described Suspect Mercado as pointing the rifle in a downward direction, shooting at something metal. He said he could see the muzzle flash from the rifle.

Mr. [redacted] said as Suspect Mercado ran through the pedestrian gate at the front of the residence, he heard someone yell, "Stop, put the gun down." He then said he heard two gunshots.

Mr. [redacted] explained to Homicide investigators that when Suspect Mercado exited the front of the residence, "The male (Suspect Mercado) had the rifle on the right side of his body, with his right hand near, or in the trigger area, with his left hand supporting the barrel." Mr. [redacted] said after he heard the two gunshots, Suspect Mercado immediately fell face first on the ground. Deputies approached and he was handcuffed (Refer to **Volume II, Exhibit A, pages 191 through 192,** for Mr. [redacted] full statement).

[redacted]

Ms. [redacted] said she heard five gunshots, which sounded like "loud thumps." She looked out her living room window, which faces Devlin Avenue. She saw a man crouched down at Civic Center Drive and Devlin Avenue. As he walked closer to her residence, she could see it was a Deputy Sheriff, because he had a gun, and he was utilizing his hand-held radio. Ms. [redacted] said as additional deputies arrived, they were yelling at someone. She could not see whom they were yelling at, or heard what they were yelling. Ms. [redacted] said she did not see the deputies shoot their weapons, but heard, "He's down." Ms. [redacted] provided nothing further to Homicide Investigators (Refer to **Volume II, Exhibit A, page 165,** for Ms. [redacted] full statement).

INJURIES:

No deputies were injured during this incident.

Suspect Mercado received a grazing wound to his forehead, caused by the AR-15 round fired by Deputy Brown.

PHYSICAL EVIDENCE

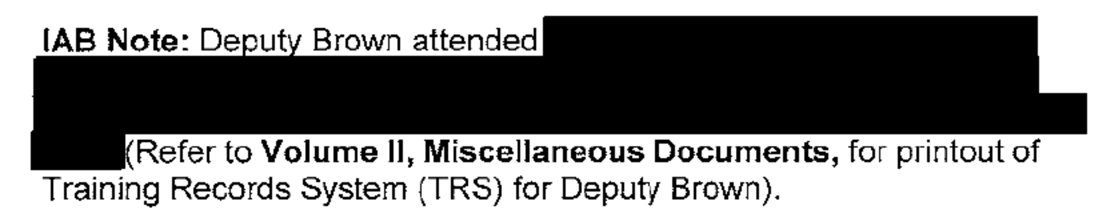
Physical evidence related to the Deputy Involved Shooting crime scene, crime scene sketches, and all related documentation (Refer to **Volume II, Exhibit A, pages 348 through 351, and Volume II, Exhibit C for outside evidence ledger).**

INVESTIGATORS' OBSERVATIONS

Responding Internal Affairs Bureau Sergeants observed the crime scene where the Deputy Involved Shooting occurred. Investigators did not enter the crime scene inside the residence, in order to maintain the integrity of the crime scene.

WEAPON USED BY DEPUTY PERSONNEL

Deputy Brown fired two rounds from his department approved Colt, model AR-15, Remington caliber semiautomatic rifle, with serial number SP[redacted] utilizing department approved .223 Remington caliber cartridges. The weapon and cartridges were found to be within specifications consistent with the AR-15 rifle (Refer to **Volume II, Exhibit A, page 349,** for Firearms Examination Form).



> **IAB Note:** Deputy Brown attended [redacted] (Refer to **Volume II, Miscellaneous Documents,** for printout of Training Records System (TRS) for Deputy Brown).

WEAPON USED BY THE SUSPECT

"Norinco" Model BWK-92, Sporter 5.56x45 caliber semi-auto rifle, Serial #[redacted] (Refer to **Volume II, Exhibit A, page 320,** for firearm description, and **page 358** for photograph of suspect weapon).

PROPERTY DAMAGE

There was no property damage related to the Deputy Involved Shooting.

CRIMINAL INVESTIGATOR / CHARGES FILED

Investigators: Homicide Bureau Sergeant Kevin Lloyd, #[redacted] and Detective Frederick, (Gene) Morse, #[redacted]

Suspect: Joseph Mercado

Court: Norwalk Superior Court

Charges: Three counts of 187(a)PC; Two counts of 664/187(a)PC; One count of 459 PC; One count of 246 PC; One count of 245(d)(3) PC; One count of 12022.53(b) PC; One count of 451(b) PC; One count of 12280(b) PC; One count of 273a(a) PC; Case #VA115238.

Court Date: 01-24-2012 for sentencing. The suspect plead guilty to three counts of 187(a)PC.

LIGHTING AND WEATHER CONDITIONS

Lighting and weather conditions were consistent with an early morning hour, approximately 0340, during the month of May in California.

> **IAB Note**: Deputy Brown said during his IAB interview, the streets in Hawaiian Gardens are very dark, with few streetlights that work. According to the crime scene sketch, there was one streetlight at the corner of Civic Center Drive/Devlin Avenue, and one on the northeast corner of the residence at [redacted] (Refer to **Volume II, Exhibit A, page 351,** for sketch of the crime scene).

HOMICIDE BUREAU INTERVIEW OF INVOLVED EMPLOYEE STATEMENT

The following narratives are intended only as a synopsis of the interviews. Additional information and precise wording may be obtained by reviewing the recorded interviews and transcriptions.

Deputy Brown was interviewed on May 6, 2010, by Sergeant Kevin Lloyd, #[redacted] and Detective Frederick Morse, #[redacted] of Homicide Bureau, at the Lakewood Sheriff Station.

Deputy Brown said while patrolling Hawaiian Gardens with his [redacted] Deputy Diaz, they met up with another unit, Deputy Arreola, # [redacted] to discuss tactics for a traffic stop of a murder suspect.

While briefing, they heard a volley of gunfire. Realizing the gunfire was close, and it sounded like a high-powered weapon, assisting units were immediately requested to respond. The two units then drove toward the gunfire.

While slowly driving up and down the darkened streets, a radio call was transmitted of a Burglary Now, at [redacted] Devlin Avenue. Deputy Brown said the volleys of gunfire continued, and he parked the radio car away from the target location due to the high-powered weapon. He instructed Deputy Arreola to take a position of containment, south of the location, on 221st Street. He and Deputy Diaz took cover while arming themselves. Deputy Brown deployed the AR-15 and Deputy Diaz armed himself with the shotgun.

> **IAB Note:** Numerous units advised over the radio they were responding with AR-15s to Deputy Brown's location. Deputy Brown notified, via hand held radio, he had deployed the AR-15.

Deputy Brown said he watched the residence from cover, as numerous muzzle flashes were seen in the upstair's windows. Deputy Brown updated the call on the radio, and directed units into positions of containment. Keeping their positions of cover, Deputy Brown said he could hear numerous sirens approaching. He saw Suspect Mercado exit the front pedestrian gate, and yell, "Mother fuckers." As the suspect walked onto the sidewalk toward Devlin Avenue, he looked north and south, as if checking for Law Enforcement. Deputy Brown had his AR-15 aimed at the suspect, and yelled for him to drop the weapon. Suspect Mercado turned toward Deputy Brown, raised the rifle up to his shoulder, steadying it as if preparing to shoot. Deputy Brown said, fearing for himself, and his partner, he "fired one round. He said then you could see him, (suspect) kind of move his arm out to the, to the right kind of like, it kind of looked weird, like, I couldn't tell if I hit him, or if I just scared the living crap out of him."

Deputy Brown said he "immediately followed with a second shot. The second shot you could see his head snap back. He dropped into the street behind a white pickup it looked like."

Deputy Brown said he did not want to move forward. He knew the Special Enforcement Bureau (SEB) and K-9 units were responding, and he was going to wait for them. Deputy Brown said he could not fully see the suspect's body or hands, but added, "I could see like a foot, that's about the only thing I could see on him, and it was still twitching and moving around. So I didn't know. I thought he still had the gun."
After a couple minutes, assisting units arrived with additional AR-15s, and Sergeant Vernola, #[redacted] with a shotgun.

Deputy Brown said a female exited the residence screaming there were people shot inside and, "They're dying." The decision was made to enter the residence to render medical aid. Deputy Brown said an arrest team was formulated, and a tactical approach was made toward the suspect who was handcuffed.

Sergeant Vernola detained the suspect, as Deputy Brown and the arrest team entered the residence.

They found two victims deceased, one victim critically wounded, (who later died at the hospital,) and several wounded (Refer to **Volume II, Exhibit A, pages 248 through 253,** for Homicide Investigators' "Statement of the Facts").

HOMICIDE BUREAU INTERVIEW OF WITNESS EMPLOYEE STATEMENT

Deputy Diaz was interviewed on May 6, 2010, by Sergeant Kevin Lloyd and Detective Frederick Morse of Homicide Bureau, at the Lakewood Sheriff Station. Sergeant Laura Haynes, of the Internal Affairs Bureau was present during the interview.

Deputy Diaz was working with his [redacted] Deputy Brown, in the city of Hawaiian Gardens. They were briefing with a traffic unit, 135T1, Deputy Arreola, regarding a traffic stop on a murder suspect. As they were talking, Deputy Diaz said they heard several volleys of gunfire from what sounded like a high-powered weapon. They drove slowly through the area, toward the gunfire, when a radio call was transmitted of a Burglary Now, at [redacted] Devlin Avenue. Deputy Diaz requested assisting units to their location.

Deputy Diaz said as Deputy Brown parked the radio car north-west of the target location, the deputies continued to hear volleys of rapid gunfire. Deputy Brown directed Deputy Arreola to take a containment position south of the target location. Deputy Brown directed Deputy Diaz to deploy the shotgun, and he, (Brown) would deploy the AR-15.

Deputy Diaz said Deputy Brown tactically had them approach the residence, and gain cover behind a cinder block wall north of the target location, to gain a better view. Deputy Diaz described what he saw when he looked at the second story window, "I could see as, as the firing is going off, I could see the flashes on the window." Deputy Diaz was asked if he heard noises, or screaming. He said he did not hear screaming, "I just saw gunfire, and they are in a line of ten to twenty."

Deputy Diaz told investigators that after several volleys of rapid gunfire, there was a pause in the gunfire.

Deputy Diaz added he was constantly watching behind them, to secure their safety, as vehicles were still driving east and west behind them on Civic Center Drive. Deputy Diaz then heard Deputy Brown yell, "Put the gun down, or something like that, and then I heard two shots."

Deputy Diaz said Deputy Brown was asking him if he could see the suspect, which he could not. Deputy Diaz heard Deputy Brown transmitting, "998" (Deputy involved in a shooting) traffic, but several units were transmitting on the radio simultaneously.

Deputy Diaz said approximately two to three minutes later, Deputies Allende, # [redacted] and Andrade, # [redacted] joined Deputy Brown, as well as Sergeant Vernola. A female exited the residence yelling that people had been shot. The decision was made to approach the suspect safely, handcuff him, and make entry into the residence. Deputy Diaz said he handcuffed Suspect Mercado, who was face down and "proned out." Sergeant Vernola remained with the suspect while the entry team entered the residence and cleared it (Refer to **Volume II, Exhibit A, pages 248 through 253,** for Homicide Investigators' "Statement of the Facts").

IAB INTERVIEW OF INVOLVED EMPLOYEE STATEMENT

The following narratives are intended only as a synopsis of the interviews. Additional information and precise wording may be obtained by reviewing the recorded interviews and transcriptions.

Deputy Brown was interviewed on August 30, 2011, by Sergeant Laura Haynes, and Sergeant Dinah Grote, # [redacted] at the Internal Affairs Bureau (IAB) offices. He essentially told the same account as given to Homicide Investigators during his interview with them.

Deputy Brown said he was patrolling the city of Hawaiian Gardens, with his [redacted] Deputy Diaz. They were briefing with another unit, Deputy Arreola, regarding tactics for a traffic stop on a murder suspect, per Operation Safe Streets Bureau. As the deputies were talking, Deputy Brown said he heard a volley of gunshots and immediately recognized the weapon to be some sort of high-powered rifle. As the deputies began to drive toward the sound of the gunshots, Deputy Diaz advised over the radio, that he could hear rapid gunfire, and requested assisting units. Deputy Brown said he was "slowly creeping down the streets, looking down the streets trying to track down that noise, and that's when the call came over the box." A radio call was dispatched of a Burglary Now call, at [redacted] Devlin Avenue. Deputy Brown said he remembered thinking this is more than a 459 (Burglary).

Deputy Brown said he parked his radio car on Civic Center Drive, an east-west street, and north of Devlin Avenue, a north-south street. Deputy Brown said he intentionally parked away from the target location, realizing the suspect was probably armed with a high-powered weapon. Deputy Brown said he looked southbound down Devlin Avenue, and he added, "It was pretty much pitch black. You couldn't see anything. I could almost feel the percussion of that rifle coming down the street echoing, and I could hear car alarms going off, but you couldn't see anything." Deputy Brown said as he assessed the situation, rapid gunfire continued to ring out. "They would fire, you know, in between five to twelve rounds consecutively, and then it would pause, and then be ten seconds, fifteen seconds, and then another volley of gun shots heard."

When Deputy Brown was asked during his IAB interview if he could estimate the number of volleys of gunfire, he said there were so many rounds being fired he couldn't begin to estimate.

Deputy Brown said he told Deputy Diaz to arm himself with the shotgun, and directed Deputy Arreola to a containment spot, south of the location, on 221st Street. Deputy Brown added that he wanted Deputy Arreola south of their location, so if the suspect began jumping fences, they could stop him before he entered another residence, and possibly take more hostages.

Deputy Brown said he radioed for assisting units, updated the call with the information he had regarding the shooting, and set up a containment. Deputy Brown and Deputy Diaz watched the house, from cover behind a cinder block wall, approximately three yards to the north of the target location. Deputy Brown said, "You could see him moving from room to room and you could see him, basically shooting people room to room. Although you couldn't see the actual figure of a person holding the rifle, you could see a shadow and you could see one shadow drop and he would move on."

The call was updated with the suspect's name, and the fact that the residence was that of the suspect's [redacted] and [redacted] of his eleven-month old [redacted] Deputy Brown said he knew they had to make entry into the house. He said he heard sirens close by, and knew he had assisting units on containment locations, as well as Supervisors responding to his location. Deputy Brown said the shooting stopped, and he saw Suspect Mercado appear at the front of the residence, yelling something like," Mother Fuckers." Deputy Brown watched as Suspect Mercado stepped out onto the sidewalk and looked up and down the street. "That's when I could see him holding what looked like to be an AK-47 in his right hand. It was a pistol grip curved out of the gun and he was holding it with the pistol grip in his right hand down by his side, with the barrel pointing to the ground."

As Deputy Brown took aim at the suspect's head, from approximately twenty-five to thirty yards away, Deputy Brown yelled at the suspect to drop the weapon. The suspect "turned facing northbound toward me, raised the rifle up to his shoulder, put the butt stock on his shoulder and aimed the rifle down the street. I don't think he knew exactly where I was at because it was dark, but he was looking for me." Deputy Brown said, "I fired that round, and at which time when I fired the first round I knew I had probably missed." The suspect was still standing holding the rifle so Deputy Brown followed again with a second shot, aiming at his head again. He saw the suspect's head snap all the way back. The suspect took one step to the side, going westbound toward the street, and then he collapsed.

> **IAB Note:** Deputy Brown said, when he aimed the AR-15 at Suspect Mercado, he utilized the AR-15s, EO Tech sight equipped with a red laser dot, as the iron sights on the AR-15 are hard to pick up during darkness. Deputy Brown described his background as vehicles parked in the street. Due to the early morning hour there were no civilians on the street.

Deputy Brown immediately radioed he had been involved in a shooting (Refer to **Volume I, Miscellaneous Documents,** for CD containing "998" radio traffic). Deputy Brown said approximately forty-five seconds later, several assisting units arrived with additional AR-15s, as well as Sergeant Vernola, armed with a shotgun.

Deputy Brown said, "We already had SEB responding with canines, and I thought they were better equipped, and I didn't know if that guy still had a gun, and was playing possum down there." Deputy Brown said SEB was fifteen minutes out, the area was contained, the suspect was down, so the plan was to wait. Deputy Brown said, "Problem was, was a female stepped out of the house and we were yelling at her to go back inside the house, and she said that there were people shot and dying inside the house." Deputy Brown explained that changed the dynamics of the situation, and entry into the residence was now imperative. An arrest and entry team was formed, the suspect was safely approached, handcuffed, and entry was made inside the house (Refer to **Volume II, Exhibit A, pages 19 through 31,** Deputy Brown's IAB interview transcript).

SUSPECT STATEMENT:

Suspect Mercado was interviewed on May 6, 2010, by Sergeant Kevin Lloyd and Detective Frederick Morse of Homicide Bureau, at the Lakewood Sheriff Station.

Suspect Mercado admitted to investigators that he drove to Victim [redacted] residence, his [redacted] and [redacted] of his infant [redacted] with the intention of murdering her. He gave up details to Homicide investigators why he had killed the other family members, and what led to the Deputy Involved Shooting.

> **IAB Note**: Suspect Mercado told Homicide Investigators during his interview, he shot the other family members because, "They got in the way." The surviving family members, several of which were small children, escaped Suspect Mercado by climbing out an upstairs window and cowering on the roof until rescue arrived (Refer to **Volume II, Exhibit E**, for photograph of residence).

Suspect Mercado explained he had intended on killing himself after the murders, but then realized he would never see his [redacted] again. He said, "So I started walking out, and I, I, the first reaction was to run to my car and try to get away as far as I can. That's when I walked out and I heard, freeze, or put your hands up, something like that." Suspect Mercado said he exited the residence with the rifle in his hand. When he heard, "Freeze," or "Put your hands up," he said he stopped and he heard one gunshot and flinched, because, "I've been shot at before," referencing his gang affiliation.

Suspect Mercado said when the second shot grazed his head, he threw the weapon on the ground and "threw my body on the floor, and stayed right there."

Suspect Mercado said after a few minutes, officers approached and handcuffed him. He was treated, transported to the hospital, and released into custody (Refer to **Volume II, Exhibit A, pages 55 through 57**, Homicide interview transcript).

> **IAB Note**: Suspect Mercado told Homicide investigators, during his interview, he had started smoking methamphetamine again after being "clean" for several years. Suspect Mercado's blood was drawn after his arrest, and the blood sample indicated the presence of amphetamines (Refer to **Volume II, Exhibit B**).



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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June 1, 2011

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 10-0355
L.A.S.D. File No. 010-10516-1351-011

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 6, 2010, non-fatal shooting of Joseph Mercado by Los Angeles County Sheriff Deputy (LASD) Freddy Brown. We have concluded that Deputy Brown acted lawfully in self-defense.

The following analysis is based upon our examination of the reports and photographs submitted to this office by Detectives G. Morse and K. Lloyd from the Homicide Bureau of the Los Angeles County Sheriff's Department. The District Attorney's Command Center was notified of this incident at 5:55 a.m. on May 6, 2010. The District Attorney Response Team, comprised of Deputy District Attorney Natalie Adomian and District Attorney Senior Investigator Christopher Oppenborn, was notified by the Command Center and responded immediately to the scene. They were given a briefing of the circumstances surrounding the incident and a walk-through of the scene.

FACTUAL ANALYSIS

On May 6, 2010, at about 3:30 a.m., Joseph Mercado, armed himself with an assault rifle and drove to his [redacted] house on Devlin Avenue in the City of Hawaiian Gardens. When he arrived at the residence he lured away the family dog then set fire to a portion of the house. Through a window, he shot [redacted] multiple times and shot and killed [redacted] He cut the screen of an open window and entered the residence. Mercado then shot and killed [redacted] and her [redacted]

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Deputies Freddy Brown and Jose Diaz were in uniform and in a marked patrol vehicle near the Tarin's home. They heard the gunshots and immediately responded to the location. When they arrived, they heard multiple shots fired from within the house, then saw Mercado walking out the front gate of the house holding an assault rifle. Deputy Brown commanded Mercado to drop the rifle. Mercado turned towards Brown and raised the rifle. Deputy Brown fired twice at Mercado. Mercado fell to the ground. He was transported to St. Mary's Medical Center where he received treatment and recovered from a single gunshot wound to the head.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. *People v. Williams* (1977) 75 Cal. App. 3d 731.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving--about the amount of force that is necessary in a particular situation. *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined in this investigation shows that Joseph Mercado shot and killed numerous people with an assault rifle. As he was fleeing from the residence, Deputy Brown ordered him to drop the weapon. Mercado refused to comply and raised his rifle towards Brown. Brown reasonably believed Mercado was going to shoot him. In fear for his life, Deputy Brown responded with deadly force. We find Deputy Brown acted in lawful self-defense. We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By [signature]

NATALIE ADOMIAN
Deputy District Attorney
(213) 974-3880

c: Deputy Freddy Brown #[redacted]